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October 6, 2004

OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: February 25, 2004

Case Number: TSO-0082

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as the "individual") to hold an access authorization¹ under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." This Decision considers whether, on the basis of the evidence and testimony presented in this proceeding, the individual should be granted a security clearance. As set forth below, it is my decision that the individual is eligible for access authorization at this time.

I. Background

The individual is employed by a contractor at a DOE facility. In August 2001, the employer applied for access authorization for the individual. In March 2002, DOE conducted a Personnel Security Interview (PSI) with the individual. In November 2002, DOE notified the individual that reliable information in its possession had created a substantial doubt concerning his eligibility for an access authorization.

The Notification Letter stated that the derogatory information regarding the individual falls within 10 C.F.R. § 710.8 (h) and (j) (Criteria H and J). The DOE Operations Office invoked Criterion J on the basis of information that the individual has been or is a user of alcohol habitually to excess, or has been diagnosed by a board-certified psychiatrist, or other licensed physician or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse. In this regard, the Notification Letter states that a DOE consultant-psychiatrist diagnosed the individual as suffering from Alcohol Dependence, with no evidence of rehabilitation or reformation. Criterion H is invoked when a person suffers from an illness or mental condition which in the opinion of a psychiatrist causes, or may cause, a significant defect in his judgment or reliability. The DOE Operations Office invoked

¹/ Access authorization is defined as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5 (a). Such authorization will be referred to variously in this Decision as access authorization or security clearance.

Criterion H based on the psychiatrist's opinion that alcohol dependence caused a significant defect in the individual's judgment or reliability.

In a letter to DOE Personnel Security, the individual exercised his right under Part 710 to request a hearing in this matter. 10 C.F.R. § 710.21(b). On March 5, 2004, I was appointed as Hearing Officer in this case. After conferring with the individual and the appointed DOE counsel, 10 C.F.R. § 710.24, I set a hearing date. At the hearing, the DOE counsel called two witnesses, the DOE consultant-psychiatrist (DOE psychiatrist) and a DOE personnel security specialist. The individual testified and also elected to call his wife, his family doctor, a counselor, a friend, and his brother-in-law as witnesses. The transcript taken at the hearing shall be hereinafter cited as "Tr." Various documents that were submitted by the DOE counsel during this proceeding constitute exhibits to the hearing transcript and shall be cited as "Ex." Documents that were submitted by the individual during this proceeding are also exhibits to the hearing transcript and shall be cited as "Indiv. Ex."

II. Analysis

The applicable regulations state that "[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable or unfavorable, as to whether the granting of access authorization would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Although it is impossible to predict with absolute certainty an individual's future behavior, as the Hearing Officer, I am directed to make a predictive assessment. There is a strong presumption against the granting or restoring of a security clearance. See *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for the granting of security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th. Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

I have thoroughly considered the record of this proceeding, including the submissions of the parties, the evidence presented and the testimony of the witnesses at the hearing convened in this matter. In resolving the question of the individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c): the nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, to include knowledgeable participation; the frequency and recency of the conduct; the age and maturity of the individual at the time of the conduct; the voluntariness of the participation; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the motivation for the conduct; the potential for pressure, coercion, exploitation, or duress; the likelihood of continuance or recurrence; and other relevant and material factors. After due deliberation, it is my opinion that the individual's access authorization should be granted as I conclude that approval would not endanger the common defense and security and would be clearly consistent with

the national interest. 10 C.F.R. § 710.27(a). The specific findings that I make in support of this determination are discussed below.

A. Findings of Fact

The individual worked over 20 years for the same company, but sought new employment when his job began requiring him to spend months away from home. Tr. at 45-47, 219, 225. In May 2001, he was offered a job at a DOE facility pending the results of a physical examination. Tr. at 226-227. The results of his blood work showed seriously elevated liver enzyme levels, and the DOE physician interpreted this to be a sign of an "alcohol use disorder." Ex. 2-2. DOE then informed the individual that he was ineligible for employment for medical reasons. *Id.*, Tr. at 227. The individual explained that he had contracted hepatitis at the age of 18, and had been warned by his doctor at that time that his liver enzymes would remain elevated indefinitely. Ex. 1-1; Ex. 1-3. The individual insisted that he was not an alcoholic. Ex. 2-1 thru 2-4. The employer offered the individual a different job at the facility, but then renewed the original offer. Ex. 1-3 at 2. The individual began working at the facility in June 2001. Tr. at 230.

The individual's employer applied for access authorization. Due to the DOE physician's interpretation of the blood test as an indication of a drinking problem, the DOE conducted a Personnel Security Interview (PSI) with the individual on March 20, 2002. Ex. 4 (PSI). The individual described his alcohol consumption as three to four beers on most evenings, or from 10 to 18 per week. PSI at 29. He limited his drinking to a workshop located in his backyard. *Id.* at 52. He also told the interviewer that in 1999 while working out of town on a project for eight months, he often drank alone at his room after work. PSI at 39. During this project, he would drink one six-pack three or four times per week. *Id.* When he returned from the trip, he resumed his normal consumption of three to four beers on some evenings, up to 10 to 18 beers in a week. *Id.* at 40, 44. It would take six to nine beers to make him intoxicated. PSI at 40. The individual had no alcohol-related arrests or domestic problems. *Id.* at 45, 48-49. During the interview, the individual agreed to be evaluated by a DOE psychiatrist. PSI at 26-28.

The DOE psychiatrist conducted a two hour interview with the individual in August 2002, administered the Substance Abuse Subtle Screening Inventory (SASSI-3) and Alcohol Use Disorder Identification Test (AUDIT), and also ordered laboratory tests. Ex. 2-1 at 2. She memorialized her findings in a report. Ex. 2-1 (Report). In the Report, the DOE psychiatrist diagnosed the individual as alcohol dependent without adequate evidence of rehabilitation or reformation. Report at 14. According to the Report, the individual was consuming up to 10 beers a week. *Id.* at 8. The DOE psychiatrist, using the DSM-IV,² opined that the individual's alcohol dependence is an illness or mental condition that causes, or may cause a significant defect in his judgment and reliability in the future.

^{2/} The DSM-IV is the *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision* (DSM-IV-TR).

Report at 8. In order to provide adequate evidence of rehabilitation the DOE psychiatrist recommended that the individual either: (1) attend Alcoholics Anonymous for one year and abstain from alcohol for an additional year; or (2) complete a substance abuse treatment program for six months and abstain from alcohol for eighteen months after the program. Report at 14. She further found that the individual could prove reformation by maintaining sobriety for two years after attending a treatment program, or maintaining sobriety for three years if he does not attend a treatment program. *Id.*

In September 2003, the DOE issued a Notification Letter to the individual advising him of his procedural rights in the resolution of his eligibility for a security clearance. The individual requested a hearing on October 28, 2003.

B. The Security Concerns

At the hearing, a personnel security specialist testified that the individual's behavior presents a risk under Criterion H because the excessive use of alcohol may impede his ability to properly protect classified information. Tr. at 18. As for Criterion J risks, she testified that the excessive use of alcohol could impair the individual's decision-making and reliability. *Id.* Finally, the personnel security specialist testified that if the individual is reformed or rehabilitated from alcohol dependence, the concern over the mental disorder is mitigated. *Id.* For the reasons explained by the personnel security specialist, I find that the local DOE security office correctly invoked Criteria H and J.

C. Witness Testimony

1. The DOE Psychiatrist

The DOE psychiatrist based her diagnosis on the DSM-IV definition of alcohol dependence as “[a] maladaptive pattern of substance abuse, leading to clinically significant impairment or distress, as manifested by three or more criteria occurring at any time in the same 12-month period.” Report at 12. After interviewing the individual, she concluded that of the seven criteria for alcohol dependence, the individual met the following three:

- (1) the substance is often taken in larger amounts or over a longer period than was intended;
- (2) a great deal of time is spent in activities necessary to obtain the substance (e.g., visiting multiple doctors or driving long distances), use the substance (e.g., chain smoking), or recover from its effects;
- (3) the substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance.

Report at 12-13. At the hearing, however, she acknowledged that the individual did not display all three of the criteria during the same 12 month period, and that she had used her

clinical judgment to “override” the time requirement. Tr. at 113, 123. She considered the individual to be in the early phase of a long term disorder. Tr. at 106.

At the hearing, the psychiatrist explained that her diagnosis was influenced by (1) the individual’s pattern of alcohol consumption during eight months in 1999 that he worked on a project in another state, and (2) his regular consumption of alcohol in the evenings in a workshop located behind his home. Tr. at 113-115, 126-128. As for the first criteria, she concluded that while the individual was working in his home workshop, he was consuming more than he intended, and more than a moderate drinker. Tr. at 131. She also found that he consumed more alcohol during the out of state trip than he intended. Tr. at 133. Second, the psychiatrist concluded that the individual spent a great deal of time in activities necessary to use alcohol based on the individual’s testimony that he limited his drinking to a workshop located behind his house. Tr. at 126-131. The individual worked on home improvement projects after work in the shop for at least three hours up to five times a week, and would drink beer while working. Tr. at 127-129. He also drank alone while on the 1998 extended business trip. Thus, the psychiatrist concluded that the individual “spent a lot of time alone” in order to drink. Tr. at 133. Finally, the psychiatrist found that the individual continued using alcohol despite knowledge of his liver problem (a physical problem) and the disapproval of his church (a psychological problem). According to the psychiatrist, the individual admitted that he continued to drink after a doctor advised him against drinking. Tr. at 124. She also concluded that the individual had conflicted thoughts about his drinking because he and his wife were very active members of a church that frowned upon drinking. Tr. at 134. Finally, she concluded that his AUDIT test results and lab abnormalities were supportive of her diagnosis. Tr. at 110-113, 136-141.

Under cross-examination, the DOE psychiatrist admitted that the first test that she administered to the individual (SASSI) concluded that he had no alcohol disorder, and that she no longer gives the second test (AUDIT) to clients because it provides limited information and is sometimes a source of “confusion.” Tr. at 104, 137. She testified that she could not rely on the elevated GGT level alone to confirm an alcohol problem, and had in fact ordered another test, the Carbohydrate Deficient Transfer (CDT), which, if positive, would have confirmed her suspicions. Tr. at 113, 136-137. ³ However, the CDT test results were negative. *Id.* In addition, the psychiatrist acknowledged that the elevated GGT level could have been caused by other factors, including exposure to toxic materials, ingestion of certain medications (including anti-inflammatories such as Tylenol), fatty liver, and other liver problems. Tr. at 148. She confirmed that her evaluation did not establish that the individual met the criteria for alcohol dependence in the DSM-IV within the 12-month period set forth in the DSM-IV. Tr. at 113, 119-125. She also agreed that he did not drink habitually to excess. Tr. at 116.

3/ According to the psychiatrist, an elevated GGT level together with a positive CDT test are very strong indicators of excessive drinking. Tr. at 113, 116.

During her testimony, the psychiatrist retreated from several key findings of her report. For example, in response to questions regarding whether she may have overrepresented the individual's drinking, the DOE psychiatrist revised her interpretation of some of his answers to the AUDIT test, thereby improving the individual's score. Tr. at 138-140. Assuming that the individual had honestly self-reported his use, she admitted that absent a prior diagnosis of alcohol dependence, "there might not be a concern." Tr. at 141. She first testified that she believed the individual sought out some special circumstances wherein he could drink, but then admitted that the eight month business trip did not qualify because the individual's specific purpose in going there was not to drink. Tr. at 127-128. In that situation, she agreed he drank because he was lonely and away from home. Tr. at 128. Viewed in its entirety, her testimony was ultimately unclear as to how the individual met the criteria and how she came to her conclusions. For instance, in explaining how she could rule out a fatty liver or other problem as the source of the elevated GGT, she responded:

You will have some — it's very common — what we call now the popular — the in-
thing now in medicine is metabolic syndrome, wherein you gain weight here in the
abdomen, then your blood sugar is a little bit high, your lipids are elevated, you know,
and he has that, but, you know, again, you know, it's — you will have elevations of the
other enzymes, because —

Q. In every instance? For every other possible explanation?

A. Well, yeah, like all labs, of course, you don't, but — so I'm really — I think Dr.
(individual's physician), once we ask him all these questions, then you know — in fact,
they should have all been sort of kind of aggressively been investigated, you know,
over the last one-and-a-half years. I'm worried for him.

Tr. at 148-149. See *generally*, Tr. at 113-125. Notwithstanding the above, she concluded that the probability of a problem with alcohol was high because "nothing else is jumping out at us from other sources." Tr. at 149.

2. The Individual's Physician

After the individual was initially denied access authorization, he began seeing a physician in November 2003, in order to review the results of his DOE physical and address any problems uncovered in those tests. Tr. at 164. The physician testified at the hearing that he was most concerned with the individual's very high blood pressure, but at the urging of the individual also monitored the liver enzyme levels. Tr. at 152, 236-237. The individual's physician agreed with the psychiatrist that there could be multiple causes of elevated liver enzymes. Tr. at 153-154, 161. However, the physician testified that in his opinion the individual's alcohol use was not the cause of his high GGT because the GGT had remained high despite the individual's (self-reported) reduced intake of alcohol. Tr. at 152. The physician opined that, with the individual's medical history, even a small amount of alcohol could elevate a GGT. *Id.* at 153. He testified that blaming the elevated GGT level on alcohol ingestion would be "a stretch," and that it would be wrong to presume alcohol caused the abnormality, taking into consideration the tests that he has run on the individual. *Id.* at 155. The physician stated that more testing was required to pinpoint the cause of the elevated GGT level, specifically a liver biopsy and a re-test of the GGT without any alcohol intake. Tr. at 162-163, 172. During questioning by the DOE psychiatrist, the individual's physician noted that the individual had elevated lipids, possibly indicating fatty infiltrate of the liver, which could also cause an elevated GGT level. Tr. at 167-168. The DOE psychiatrist agreed with his assessment. *Id.* at 168.

3. The Individual

The individual began his testimony by describing a bout with hepatitis at the age of 18, over 20 years ago. Tr. at 215. At that time, when his doctor told him to avoid alcohol, he did not think that this was an admonition to abstain from alcohol for the rest of his life. Tr. at 217. He did, however, abstain while his symptoms continued. Tr. at 217. In the ensuing years, the individual did not visit a doctor regularly or have a family doctor. Tr. at 235. In fact, he had never had a complete physical prior to seeking employment at the DOE facility in 2001. *Id.* at 227.

Upon receiving notification that his clearance was denied, the individual decreased his drinking and went to see his church counselor. *Id.* at 232-234. He also sought the advice of a physician to resolve the problem of his elevated enzymes and to control his hypertension. *Id.* at 236. He resumed drinking after he was hired, up to six beers a couple of times a month. *Id.* at 234. At the time of the hearing, he had reduced his drinking to two 12-ounce cans of beer a week. *Id.* at 238. He limited his drinking to his workshop so that his children would not see him drinking, but he often worked in the shop without consuming alcohol. *Id.* at 241, 246, 250. The individual testified that he had never been sure that there was any connection between his elevated liver enzymes and drinking. Tr. at 250-251, 258.

4. Other Witnesses

The individual's wife testified about an 18 year marriage with many activities centered around their children and church. Tr. at 37. Both described a very close relationship, and testified as to their extreme unhappiness at being apart when the individual had to work out of state. Tr. at 38, 45-48. The individual spent a lot of time in his woodworking shop behind their previous home, and the wife and children often visited him there. Tr. at 49. She did not believe the conclusion of the Report that the individual had an alcohol problem because the individual had no alcohol-related legal problems, alcohol-related arrests, incidents, or injuries. Tr. at 40-44. The wife described her husband as an excellent father, husband and provider. Tr. at 50-55.

The individual's church counselor, who has known the individual and his wife for five years, also testified. Tr. at 192. The counselor, who has a doctorate in behavioral counseling, began treating the individual in October 2003. *Id.* The individual came to the counselor with the psychiatrist's evaluation, in search of assistance in resolving the issues described in the letter. The counselor described the individual as cooperative and truthful, without attempting to minimize problems. Tr. at 194. During weekly sessions, the individual and the counselor discussed books that the individual had read on chemical dependence. *Id.* at 195. In his opinion, the individual was not alcohol dependent, and probably would not develop a problem in the future due to a good support system and new ways to cope with boredom and loneliness. Tr. at 198, 201-204, 209. The sessions decreased from weekly to "as needed." Tr. at 13.

A friend of the individual testified that he had known the individual for 30 years. Tr. at 85. This witness also drank a beer with the individual a few times, most recently about five years ago, and has had a beer with the individual in his shop. Tr. at 86-87, 92-95. The individual's brother-in-law, who also worked at the DOE facility and also has access authorization, has known the individual for almost 20 years. Tr. at 262. He sees the individual regularly. *Id.* at 263. They occasionally have one or two beers after working in the individual's shop. Tr. at 264. He has never seen the individual intoxicated and has no knowledge of any alcohol problem. *Id.* at 263-264.

D. Mitigation of the Security Concerns

After developing the record through the hearing process, I find that the individual has successfully mitigated the security concerns of the agency. In a Part 708 proceeding, the Hearing Officer gives great deference to the expert opinions of psychiatrists and other mental health professionals regarding rehabilitation or reformation. *See Personnel Security Hearing*, Case No. VSO-0476, 28 DOE ¶ 82,827 (2001). However, the testimony of the DOE psychiatrist was not persuasive.⁴ The sole evidence of the individual's alleged alcohol

^{4/} As an expert witness, substantial deference is generally accorded to the opinion of a DOE consultant-psychiatrist. However, the hearing officer need not blindly follow the psychiatrist's opinion when it is based on a misapplication of the facts and circumstances presented in the case. *See, e.g., Personnel Security Hearing*, Case No. TSO-0010, 28 DOE ¶ 82,924 (2003); *Personnel Security Hearing*, Case No. VSO-0565, 28 DOE ¶ 82,905 (2003); *Personnel Security Hearing*, Case No. VSO-0556, 28 DOE ¶ 82,899 (2003).

disorder was the presence of elevated liver enzymes and his self-reported alcohol usage. During the hearing, both the DOE psychiatrist and the individual's physician agreed that elevated GGT levels were not a reliable test for alcohol dependence. Tr. at 112-113, 153. *Accord*, *Personnel Security Hearing*, Case No. VSO-0322, 27 DOE ¶ 82,845 (2000); *Personnel Security Hearing*, Case No VSO-0565, 28 DOE ¶ 82,905 (2003); *Personnel Security Hearing*, Case No. TSO-0010, 28 DOE ¶ 82,924 (2003). The elevated GGT level signaled an unhealthy liver and a possible alcohol problem, but both medical professionals agreed that the cause of the abnormality could not be determined exactly with the available information. Moreover, the DOE psychiatrist admitted that the individual did not drink to excess and had no alcohol-related "incidents." Tr. at 183. Thus, the psychiatrist's diagnosis was based on an abnormal lab test that by her own admission could have multiple explanations and the individual's honest description of his drinking; specifically an eight month period, six years prior to the hearing, when he got intoxicated some evenings while working in another state away from his close-knit family, and some beer drinking after work in his wood shop.

The diagnosis of alcohol dependence is not supported by the record of this case and is inconsistent with the criteria specified in the DSM-IV-TR. According to the DOE psychiatrist, her finding is based on incidents that did not occur during the same 12-month period. It is true that the DSM-IV itself states that it is not to be used as a "cookbook," leaving some things to the interpretation of the medical professionals who use the DSM-IV in their diagnosis. Nonetheless, even disregarding the 12-month guideline, the record reflects mitigation. For example, the record does not support the psychiatrist's contention that the individual was in the past told to abstain from alcohol forever in order to protect his liver. Tr. at 142-143. He testified that at the time of the onset of the disease almost 20 years ago, when a doctor told him not to drink alcohol he did not, as an 18 year old, understand this to mean that he should abstain from alcohol forever. Tr. at 217. In the ensuing years, he had never had a complete physical until he applied for the job at the DOE facility. Thus, the individual had no evidence of any continuing liver problem until his physical in 2001 because he did not have a family doctor and had been healthy for most of his life.⁵ It is reasonable to believe that a healthy young man did not believe that he had to abstain from alcohol for the rest of his life.⁶

5/ During the interview with the psychiatrist, the individual stated that he had a routine physical in 1997 or 1998 for an insurance company. Report at 6. Despite the disclosure of abnormalities in a blood test, the individual suffered no adverse consequences. Report at 6.

6/ The psychiatrist testified the alleged alcohol disorder did not develop until later in the individual's life. Tr. at 143.

The record also contains credible evidence that, contrary to the DOE psychiatrist's conclusion, the individual was not spending "a great deal of time being alone by himself" in activities necessary to drink alcohol. Tr. at 126, Report at 13. The individual was a skilled craftsman who also practiced his craft in his free time as a hobby constructing items for his home, for friends, and for his church. After work, he enjoyed spending time in his shop and often drank while he was working. However, his wife testified that she would often go to the shop to spend time with the individual, and two other witnesses also testified about spending time with the individual in his shop. The visitors testified that the alcohol use was minimal (1-2 beers) and that they drank beer after the projects were finished. The individual explained that he limited his drinking to the workshop in order to avoid drinking around his children. Had he wanted to spend more time drinking alcohol, he clearly could have stayed with his first employer who sent him out of state frequently for extended periods of time.⁷ Instead, the individual chose to find a new job so that he could spend more time with his family.

In cases of alleged alcohol dependence, we have noted the importance of a stable home and family life. *Personnel Security Hearing*, Case No. VSO-0565, 28 DOE ¶ 82,905 (2003). This individual has never had any alcohol-related legal problems, arrests, injuries, workplace problems, domestic discord or other incidents. He was a reliable worker at the same company for over 20 years, but when faced with extended assignments away from his family, he chose to find a new job that did not require travel. There was credible testimony that he is active in his church, participates in his children's extra-curricular activities, is a reliable employee and has a close relationship with his wife.⁸ See *also* Indiv. Ex. 10. Using common-sense judgment, and carefully observing the witnesses and assessing their credibility, I cannot find that the individual spent hours in his shop in order to consume alcohol. Rather, he appears to have been engaged in a lifelong hobby that provides relaxation after a day's work. He did not bar friends and family from visiting his workshop, but on the contrary, welcomed their company while he was there.

Finally, under questioning from the individual's counsel, the psychiatrist admitted that there was some mitigation since the individual had no alcohol-related incidents and the individual's sole period of excessive drinking occurred several years ago. Tr. at 183-186. In addition, the passage of over two incident-free years since the psychiatrist's interview with the individual provides further mitigation of her conclusions.

7/ The individual's supervisor from his previous job submitted a letter describing the individual as a reliable hardworking employee whose departure was a loss for the employer. Indiv. Ex. 6.

8/ Character evidence is not weighed as heavily as medical evidence in this type of case. However, in the absence of evidence of alcohol dependence, we have accepted character evidence as relevant in examining the logic that if the individual were alcohol dependent "there would be at least some probative, contemporaneous evidence in his family or work life." See *Personnel Security Hearing*, Case No. VSO-0565, 28 DOE ¶ 82,905 (2003) (recommending restoration of access authorization to individual with elevated GGT level).

In sum, I find that the expert testimony of the individual's physician, combined with the absence of alcohol-related incidents or excessive drinking, and the very positive character testimony in the record has mitigated the security concerns raised by the psychiatrist's report.

III. Conclusion

As explained in this Opinion, I find that the DOE Operations Office properly invoked 10 C.F.R. § 710.8 (h) and (j). However, I also find sufficient evidence in the record to resolve the security concerns. In view of these criteria and the record before me, I find that the individual has demonstrated that granting his access authorization would not endanger the common defense and would be consistent with the national interest. Accordingly, I find that the individual's access authorization should be granted. The Manager of the Operations Office of the Director, Security Affairs may seek review of this Decision by an Appeal Panel under the procedures set forth at 10 C.F.R. § 710.28.

Valerie Vance Adeyeye
Hearing Officer
Office of Hearings and Appeals

Date: October 6, 2004